

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

**ORIGINAL**

**RECEIVED**  
AUG 27 2004

Illinois Commerce Commission  
RAIL SAFETY SECTION

CITY OF DES PLAINES, an Illinois Municipal Corporation,

Petitioner,

vs.

UNION PACIFIC RAILROAD COMPANY and WISCONSIN  
CENTRAL LTD., and ILLINOIS DEPARTMENT OF  
TRANSPORTATION,

Respondents.

T03-0102

In the matter of the petition of the City of Des Plaines for an order of the  
Illinois Commerce Commission to require the respondents to pay their  
allocable share of the costs of a major alteration of an above grade crossing  
in the City of Des Plaines, Cook County, Illinois.

MOTION FOR CONTINUANCE

NOW COMES WISCONSIN CENTRAL LTD. ("WCL"), through its attorney,  
Michael J. Barron, Jr. with its Motion for Continuance, and in support thereof states as  
follows:

1. In this docket, Petitioner is seeking an order directing the Respondent railroads to reconstruct and relocate the overhead bridge by which such railroads intersect Miner Street in the City of Des Plaines.
2. The docket is set for hearing on September 14, 2004.
3. The subject matter of the Petition ("Petition") in the above-referenced docket is also the subject matter of an appeal filed by the railroads and currently pending in Case Number 04-1516 in the United States Court of Appeals for the 7<sup>th</sup> Circuit ("7<sup>th</sup> Circuit Case").
4. In the 7<sup>th</sup> Circuit Case, the railroads are seeking declaratory relief and an order that the Commission's consideration of the subject matter in this docket herein has been preempted by the Interstate Commerce Commission Termination Act.

**DOCKETED**

AUG 30 2004

5. The due date for Appellees' briefs has been extended to August 27, 2004, and the railroads' reply brief is due September 10, 2004.

6. WCL believes that a Commission proceeding taking place while it is litigating the same subject matter with the same parties in a Federal Court is a commitment of resources that may not be necessary, and that for clarity, the Commission should continue proceedings in this docket until the Court of Appeals has ruled in the 7<sup>th</sup> Circuit Case.

WHEREFORE, WCL respectfully requests that the Commission enter an order:

1. That continues proceedings in this docket for at least 120 days to give the Court of Appeals the opportunity to rule in the 7<sup>th</sup> Circuit Case; and
2. Grant further relief that the Commission deems just and equitable.

Dated: August 26, 2004

Respectfully submitted,

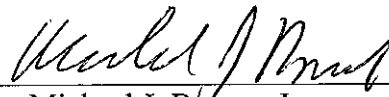
WISCONSIN CENTRAL LTD.

By: 

Michael J. Barron, Jr.  
Counsel for Wisconsin Central Ltd.  
CN  
17641 S. Ashland Avenue  
Homewood, IL 60430  
Phone: (708) 332-3954  
Fax: (708) 332-4361  
ARDC #6228809

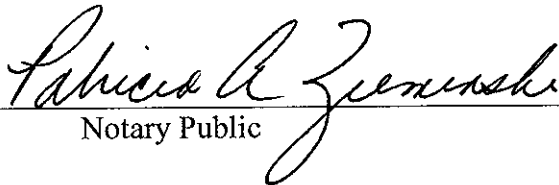
VERIFICATION

Michael J. Barron, Jr., being duly sworn, deposes and says that he is Counsel for Wisconsin Central Ltd., that he has read the foregoing Reply of Wisconsin Central Ltd., and that the contents thereof are true and correct to the best of his knowledge and belief.



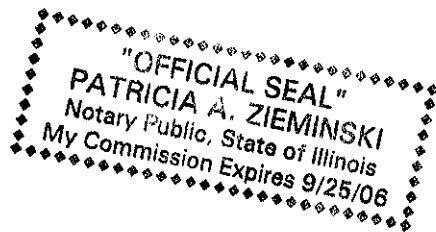
Michael J. Barron, Jr.

Subscribed and sworn to  
Before me this 26<sup>th</sup> day of  
August, 2004.



Notary Public

My Commission Expires:



STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

CITY OF DES PLAINES, an Illinois Municipal Corporation,

Petitioner,

vs.

UNION PACIFIC RAILROAD COMPANY and WISCONSIN  
CENTRAL LTD., and ILLINOIS DEPARTMENT OF  
TRANSPORTATION,

Respondents.

T03-0102

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Illinois Commerce Commission to require the respondents to pay their  
allocable share of the costs of a major alteration of an above grade crossing  
in the City of Des Plaines, Cook County, Illinois.

NOTICE OF FILING


To: Mr. Mack H. Shumate, Jr.  
Union Pacific Railroad Company  
101 North Wacker Drive, #1920  
Chicago, IL 60606  
Fax # (312) 777-2065

Ms. Stacey C. Hollo  
Counsel  
Illinois Department of Transportation  
2300 S. Dirksen Parkway, Room 300  
Springfield, IL 62764  
Fax # (217) 324-4480

Mr. Paul Keller  
Ancel, Clink, Diamond, Bush, DiCianni & Rolek P.C.  
140 South Dearborn Street, 6<sup>th</sup> floor  
Chicago, IL 60603  
Fax # (312) 782-0943

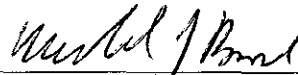
PLEASE TAKE NOTICE that on August 26, 2004, I have sent for filing with the Illinois  
Commerce Commission, 527 East Capitol Avenue, Springfield, IL 62701, the attached Motion of  
Wisconsin Central Ltd.

WISCONSIN CENTRAL LTD.

By   
Michael J. Barron, Jr.  
Counsel for Wisconsin Central Ltd.  
CN  
17641 S. Ashland Avenue  
Homewood, IL 60430  
Tel: 708-332-3954  
Fax: 708-332-4361  
ARDC 6228809

CERTIFICATE OF SERVICE

I, MICHAEL J. BARRON, JR., an attorney, certify that I served the foregoing Motion upon those made party to this proceeding by facsimile and by enclosing copies of the foregoing in envelopes addressed to the parties as set forth below, postage prepaid, and depositing the envelopes in the United States mail at 17641 S. Ashland Avenue, Homewood, IL on the 26th day of August, 2004.



Michael J. Barron, Jr.

Mr. Mack H. Shumate, Jr.  
Union Pacific Railroad Company  
101 North Wacker Drive, #1920  
Chicago, IL 60606  
Fax # (312) 777-2065

Ms. Stacey C. Hollo  
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